

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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CHRISTOPHER LOADHOLT, <i>on behalf of himself and</i>	:	
<i>all others similarly situated,</i>	:	
	:	
Plaintiff,	:	22-CV-8205 (JMF)
	:	
-v-	:	<u>ORDER</u>
	:	
ORIENTAL DÉCOR.COM INC.,	:	
	:	
Defendant.	:	
-----X	:	

JESSE M. FURMAN, United States District Judge:

On November 18, 2022, Defendant filed a motion to dismiss the complaint pursuant to Rule 12(b) of the Federal Rules of Civil Procedure. *See* ECF No. 13. On December 7, 2022, Plaintiff amended his complaint. *See* ECF No. 17. Several months have passed, and Defendant has neither answered nor filed a motion to dismiss the amended complaint. Accordingly, Defendant’s motion to dismiss is DENIED as moot. *See Pettaway v. Nat’l Recovery Sols.*, 955 F.3d 299, 303-04 (2d Cir. 2020) (“[W]hen a plaintiff properly amends h[is] complaint after a defendant has filed a motion to dismiss that is still pending, the district court has the option of . . . denying the pending motion as moot . . .”).


As the deadline set forth in Rule 15(a)(3) has long since passed, Defendant is in default. Plaintiff shall file any motion for default judgment, in accordance with the Court’s Individual Rules and Practices for Civil Cases (available at <https://nysd.uscourts.gov/hon-jesse-m-furman>), **within two weeks of the date of this Order**. If Plaintiff’s counsel submits calculations in support of any motion for default judgment, Plaintiff’s counsel shall also email native versions of the files with the calculations (i.e., versions of the files in their original format, such as in

“.xlsx”) to Chambers at Furman_NYSDChambers@nysd.uscourts.gov. If or when a motion for default judgment is filed, the undersigned will enter a further Order setting a deadline for any opposition and reply and scheduling a show cause hearing. If no motion for default judgment is filed by the deadline set forth above, the case may be dismissed for failure to prosecute without further notice to the parties.

Plaintiff shall electronically serve a copy of this Order on Defendant **within two business days from the date of this Order** and shall file proof of such service **within three business days of the date of this Order**. The Clerk of Court is directed to terminate ECF No. 13.

SO ORDERED.

Dated: March 31, 2023
New York, New York



JESSE M. FURMAN
United States District Judge